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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,038	11/10/2000	ROBERT A. KOCH	36968/202435	3243
7590 Scott P. Zimmerman PLLC P.O.Box 3822 Cary, NC 27519				
EXAMINER NEURAUTER, GEORGE C				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/709,038

Applicant(s)

KOCH, ROBERT A.

Examiner

George C. Neurauter, Jr.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1, 3-4, 6-12, 14-29 and 31-47 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 February 2008 has been entered.

Response to Arguments

Applicant's arguments filed 8 February 2008 have been fully considered but they are not persuasive.

The Applicant argues that Armstrong fails to teach or suggest translating the user's profile information into a code number. The Examiner respectfully traverses these arguments.

The specification discloses:

"Membership in the communications circle is established by a member completing a profile using an Internet web-based form. The profile is stored in a customer profiles database. A communications server translates the profile information into a

unique code number for each member's profile. A collection of code numbers completes the requirement for membership in the communications circle." (page 3, lines 3-7)

Within the disclosures of the specification, there is no further explanation of how such "translation" is achieved. The Examiner, after further review of the specification, found a disclosure similar in scope on page 12, lines 4-9:

"Both A 204 and B 202 complete a profile 205,207 that is stored in the customer profiles database 21. The communications server 18 generates a random and unique code number for each profile and assigns a code number to each profile 205,207 stored in the customer profiles database 21. The profiles for A 204 and B 202 are stored in the customer profile database 21 that is coupled to the communications server 18."

In the current response, the Applicant amended the claims away from such an interpretation since the claims previously recited "the second user's profile assigned a random and unique code number". However, the Applicant appears to argue these two embodiments as if they were one and the same since the Applicant argues in the instant response that "The patent to Armstrong, et al. is completely silent to any translation of profile information into a random and unique number" (see page 15) (Examiner's emphasis added). Therefore, the Examiner is unable

to determine which embodiment the Applicant wishes to claim. The Applicant is asked to clarify this issue for the record.

The Examiner will assume that such translation as being the generation of a random and unique code number for each profile commensurate with the scope of the specification which, as shown previously, is clearly shown within the teachings of Armstrong. Armstrong taught that "Each watched party initially registers with the PCP 10 and is given a unique presence management identifier" (column 6, lines 7-8)

As a final note, if these embodiments are separate and distinct, the Examiner notes for the record that such "translation" of profile information into a code number in its plain meaning may be interpreted as correlating the profile information with a unique identifier in order to uniquely distinguish a profile from other profiles as is well known in the art. Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01.

The Applicant also argues that Armstrong fails to teach or suggest retrieving the member's code number and using the code number as a pointer to retrieve the member's profile information. The Examiner respectfully does not agree in view of the teachings of Armstrong. The broadest reasonable

interpretation of the claim allows for any entity to retrieve the code number and/or to use the code number as a pointer. Armstrong clearly teaches that "If a watching party 12 attempts to contact a watched party 13 a contact request is sent to the PCP 10 by the watching party...The watching party may not need to know any of the watched party's direct contact details to make this request; instead, PCP 10's identifier for the watched party 13 is used" (see column 6, lines 39-47, specifically lines 39-41 and 44-47) Armstrong further teaches that "When the PCP 10 receives a presence request it determines whether the requested watched party 13 is available for contact and provides this information to the watching party 12 who made the request." (see column 6, lines 48-51) Therefore, Armstrong clearly shows that the PCP takes the identifier provided by the watching party and uses the identifier to access the specific member's profile information to determine whether the member is available for contact or for other reasons such expounded upon within Armstrong such as to report presence information to the watching party, which is also recited in the claimed invention.

Therefore, Armstrong did disclose the limitations argued and the claims are not in condition for allowance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites "the second user's Home Location Register". This limitation has insufficient antecedent basis in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,807,423 to Armstrong et al.

Regarding claim 1, Armstrong discloses a method for presenting presence information to a first user (referred to within the reference as "watching party"), comprising:

storing profile information associated with a second user ("watched party");

translating the second user's profile information in to a code number ("unique presence management identifier" or "PCP identifier"); (column 6, lines 7-24 and 39- 47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26);

exchanging the second user's code number with the first user, thus allowing the first user to access the second user's profile (see at least column 6, lines 39-47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26);

receiving a request to initiate contact with the second user; retrieving the second user member's code number and using the code number as a pointer to retrieve the second user's

profile information; retrieving presence information of the second user indicating the second user's presence at a plurality of contact devices; and presenting the second user's presence information to the first user, the presence information indicating the second user's presence at the plurality of contact devices. (column 6, lines 39-61, specifically "give a list of available communication methods" to the first user; see also column 5, lines 24-55)

Armstrong does not expressly disclose wherein the second user's profile requiring a password to access the profile and exchanging the second user's password with the first user, however, Armstrong does disclose wherein users access a profile management system in order to access their profile (column 13, lines 46-49; column 14, lines 15-22). Armstrong also generally discloses wherein the second user logs in to services such as the Internet and other services (column 6, lines 31-38).

The Applicant has failed to address the Examiner's assertion of Official Notice. A general allegation that the claims define a patentable invention without any reference to the Examiner's assertion of Official Notice would be inadequate. If the Applicant does not traverse the examiner's assertion of official notice, the Examiner should clearly indicate in the next Office action that the common knowledge or well-known in

the art statement is taken to be admitted prior art because the Applicant failed to traverse the Examiner's assertion of official notice. See MPEP 2144.03. Therefore, the subject matter that is the subject of the Examiner's Official Notice is considered to be admitted prior art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to require a password to access a profile since the Applicant admits that password protection of a user's account for the purposes of preventing unauthorized access was known by those of ordinary skill in the art at the time the invention was made and one of ordinary skill in the art would have been motivated to modify the teachings of Armstrong to include the well known subject matter in the art to achieve the claimed invention since the well known subject matter was well within the level of knowledge and skill of one of ordinary skill and would have reasonably suggested, given this knowledge, that, in view of the teachings of Armstrong, it would be obvious to achieve the limitations of the claim.

It further would have been obvious to one of ordinary skill at the time the invention was made to modify the teachings of Armstrong to include the password during an exchange with the first user in light of the above reasons for the obviousness of

passwords in the context of profile account protection and also in light of the disclosures of Armstrong, which disclose exchanging the unique code with the first user and wherein the first user and the second users are able to belong to an "aggregate" as described in Armstrong so as to have a shared profile of both users which may be included as part of the second user's profile and allow the users to modify the profile in an equitable fashion (see at least column 6, lines 39-47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26). These disclosures would have reasonably suggested to one of ordinary skill in the art that, since the shared profile of the user's may be protected by a password in order for only the users to be able to access the shared profile, the second user should have the password of the shared profile so that the first user is able to access the shared profile of the users. Therefore, it would have been obvious to one of ordinary skill in the art to achieve the claimed invention.

Regarding claim 3, Armstrong discloses the method of claim 1, further comprising receiving authorization to present the second user's presence information to the first user. (column 14, lines 4-8; column 15, line 60-column 16, line 12)

Regarding claim 4, Armstrong discloses the method of claim 1, wherein the retrieving the presence information comprises retrieving presence information for a plurality of addresses that represent at least one of different types of communications and different types of the contact devices. (column 3, lines 47-column 4, line 6)

Regarding claim 6, Armstrong disclosed the method of claim 1, further comprising sending an IS-41 LocationRequest message to the second user's Home Location Register. (see column 4, lines 11-20, specifically lines 16-20; column 5, lines 10-55, specifically lines 23-25, 32, and 39-43; column 6, lines 1-5 and 25-38, specifically lines 4 and 35-36; column 14, line 57-column 15, line 36, specifically column 15, lines 1-2)

Regarding claim 7, Armstrong discloses the method of claim 1, wherein presenting the second user's presence information comprises presenting the presence information in an electronic interface including via at least one of a computer and a telephone. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 8, Armstrong discloses the method of claim 1, wherein retrieving the presence information is at least in part determined based on a time or a day of week preference from a profile of the second user. (column 4, lines 6-10; column 6, lines 7-24, specifically lines 15-22; column 5, line 35)

Regarding claim 9, Armstrong discloses the method of claim 1, further comprising presenting a graphical indicator that indicates the second user's presence at the plurality of contact devices. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 10, Armstrong discloses the method of claim 6, further comprising receiving a response to the IS-41 Location Request message that indicates availability. (see column 4, lines 11-20, specifically lines 16-20; column 5, lines 10-55, specifically lines 23-25, 32, and 39-43; column 6, lines 1-5 and 25-38, specifically lines 4 and 35-36; column 14, line 57-column 15, line 36, specifically column 15, lines 1-2)

Regarding claim 11, Armstrong discloses the method of claim 1, wherein retrieving the presence information comprises at least one of i) querying a provider to determine the presence information and ii) querying a contact device to determine the presence information. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Regarding claim 12, Armstrong discloses a system for presenting presence information to a sender of a communication, comprising:

an input for receiving presence information of a recipient indicating the recipient's presence at a plurality of contact devices; and a processor coupled with the input, the processor

causing presentation of the recipient's presence information to the sender, the presence information indicating the recipient's presence at a plurality of contact addresses (column 6, lines 48-61, specifically "give a list of available communication methods" to the sender; see also column 5, lines 24-55), the processor receiving a selection from the sender that selects a contact address to which the communication is addressed, and the processor initiating the communication to a destination, wherein the destination of the communication is the contact address selected by the sender. (column 6, lines 48-61, specifically lines 60-61) (note that the selection from the list is inherent within the teachings of Armstrong)

Regarding claim 14, Armstrong discloses the system of claim 12, wherein the processor initiates a telephone call to a telephone number associated with the selected contact address. (column 6, lines 9-13)

Regarding claim 16, Armstrong discloses the system of claim 12, wherein the processor initiates an electronic message to an email address. (column 6, lines 9-13)

Regarding claim 17, Armstrong discloses the system of claim 12, wherein the processor initiates an electronic message to a text messaging address. (column 6, lines 9-13; column 16, lines 30-41)

Regarding claim 18, Armstrong discloses the system of claim 12, wherein the processor processes the recipient's presence information for display to the sender. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 19, Armstrong discloses the system of claim 12, wherein the processor presents a graphical indicator that indicates the recipient's presence at the plurality of contact device addresses. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 21, Armstrong discloses the system of claim 12, wherein the processor retrieves the presence information by querying at least one of i) a provider and ii) the contact address to determine the presence information. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Regarding claim 22, Armstrong discloses the system of claim 12, wherein the selection from the sender is based on the presence information. (column 6, lines 48-61, specifically lines 60-61)

Regarding claim 23, Armstrong discloses the system of claim 12, wherein the input that receives the presence information receives a notification that the contacts address is active. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Claims 24-29 and 31-35 are also rejected since these claims recite substantially the same limitations as recited in claims 12, 14-21, 23, and 22 respectively.

Regarding claim 36, Armstrong discloses a computer readable medium according to claim 24, further comprising instructions for causing display of an icon to indicate presence at least one of a phone, a personal digital assistant, a pager, a computer, and an interactive television. (column 1, lines 14-27; column 6, lines 48-61)

Claims 37-42 are also rejected since these claims recite substantially the same limitations as recited in claims 12, 14-17, and 22 respectively.

Claims 43-47 are also rejected since these claims recite substantially the same limitations as recited in claims 12, and 14-17 respectively.

Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6 807 423 to Armstrong et al in view of US Patent 6 714 519 to Luzzatti et al.

Regarding claim 15, Armstrong discloses the system of claim 12.

Armstrong does not disclose wherein the processor initiates an Internet Telephony call from the sender to the recipient, however, Luzzatti does disclose these limitations within the

context of selection of a plurality of recipient devices by a sender after retrieving the presence of the recipient at each of the plurality of devices (column 1, line 41; column 2, line 34-column 3, line 18; column 5, lines 39-45, specifically lines 40-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Luzzatti discloses that Internet Telephony calls are used to initiate communications between two users over the Internet (column 1, lines 38-54). In view of these specific advantages and that the references are directed to retrieving a presence of a recipient at a plurality of devices and selecting, by a sender, a specific device to initiate communications, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Regarding claim 20, Armstrong discloses the system of claim 12.

Armstrong does not expressly disclose wherein the processor causes display of an icon to initiate the communication from the sender to the address associated with the selected contact

addresses, however, Armstrong does disclose displaying graphical indicators that indicates the recipient's presence at the plurality of contact device addresses and inherently allows the sender to select an address to initiate communications (column 1, lines 14-27; column 6, lines 48-61).

Luzzatti discloses wherein a processor causes display of an icon in the context of displaying presence information to a sender. (column 3, lines 6-17; column 5, lines 20-25)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Armstrong to include the graphical icon of Armstrong since one of ordinary skill would have found it obvious that, in view of the teachings of Armstrong and Luzzatti and the knowledge of one of ordinary skill in the art, the use of an icon on a graphical user interface is used to indicate information to a user and allow the user to select information on a display by visual inspection. Therefore, the teachings of these references would have reasonably suggested to one skilled in the art that using an icon as disclosed in Luzzatti within a list of available communication methods which allows the sender to select an address to initiate communications would have been obvious in view of the teachings of these references. In view that the references are directed to retrieving a presence of a

recipient at a plurality of devices and selecting, by a sender, a specific device to initiate communications using a graphical user interface, one of ordinary skill would have been motivated to combine the teachings of these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C. Neurauter, Jr./
Primary Examiner, Art Unit 2143